MC-275

Name Eugene Orange PCR, SE

Address Kern Valley State Prison

Delano, California 93216

P.O. BOX- 5103,

CDC or ID Number V-64598

2254 ✓ 1983
FILING FEE PAID
Yes ___ No ✓
IFP MOTION FILED
Yes ___ No ✓
COPIES SENT TO
Court ✓ ProSe ___

FILED
OCT 2 2 2007
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY KM DEPUTY

IN THE SUPREME COURT OF

THE STATE OF CALIFORNIA.

(Court)

Eugene Orange

Petitioner

vs.

Hedgepeth, Warden K.V.S.P.
State of California.

Respondent E.G. BROWN A.General.

PETITION FOR WRIT OF HABEAS CORPUS

'07 CV 2066 JLS WMc

No. ______

(To be supplied by the Clerk of the Court)

INSTRUCTIONS—READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.

- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under Rule 60 of the California Rules of Court [as amended effective January 1, 2005]. Subsequent amendments to Rule 60 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

This petition concerns:

[X] A conviction

[ ] Parole

[ ] A sentence

[ ] Credits

[ ] Jail or prison conditions

[ ] Prison discipline

[x] Other *(specify)*: To exhaust two issues not "Raised in original Brief"..

1. Your name: Eugene Orange
2. Where are you incarcerated? Kern Valley State Prison, Delano, California..
3. Why are you in custody? [X] Criminal Conviction [ ] Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

"First-Degree-Murder. Penal Code # 187)

"Theft of Credit Card".

b. Penal or other code sections: N/A

c. Name and location of sentencing or committing court: San Diego Superior Court,

Vista, California

d. Case number: SCN165993

e. Date convicted or committed: December 21, 2005

f. Date sentenced: February 6,2006

g. Length of sentence: (111 years) "LIFE".

h. When do you expect to be released? "When my life sentence has been served"...

i. Were you represented by counsel in the trial court? [X] Yes. [ ] No. If yes, state the attorney's name and address:

Ms. Sloan Ostbye, suite 200, S. 400, Meiroge Dr.,

Vista, California 92081

4. What was the LAST plea you entered? *(check one)*

[x] Not guilty [ ] Guilty [ ] Nolo Contendere [ ] Other:

5. If you pleaded not guilty, what kind of trial did you have?

[x] Jury [ ] Judge without a jury [ ] Submitted on transcript [ ] Awaiting trial

6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." *(If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)*

(1) INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL

(2) BOTH, TRIAL AND THE APPELLATE COURTS MADE JUDICIAL ERRORS...

BY ADMISSION OF INADMISSIBLE EVIDENCE..."Trial-Court".

BY FAILURE TO REVERSE SAID EVIDENCE....."Appellate Court".

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. *If necessary, attach additional pages.* CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: *who* did exactly *what* to violate your rights at what time *(when)* or place *(where)*. *(If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)*

pursuant to Rules 28 and 29, of the California Rules of Court, Petitioner Eugene Orange,Respectfully request that this Court Review this "Petition". For two Issues, that was not raised in the "Orignial Habeas Corpus, for Supreme Court Review". ~~Where Counsel removed one issue, intentionaa~~lly.

"An Admission of the Victim's Zeda, notes, to her Son and Friend.. "

"And two..

The Appellate Court's Judicial Error, must be submitted to the Supreme Court.. It cannot be submitted to a lower court, than it-self: for its Failure to Reverse, or remand the case to the Superior Court, ,for the Constitutional Violations resulting in the conviction... Petitioner ask that this High Court will grant review to the following two issues of law,so Petitioner will have reserved the right to Petition the United-States District Court.(O'Sullivan v.Boerckel(1999)526 U-S-838,842-843). [119 S.c.t.1728-144 L.Ed. 2d. (1).

Please See the Attached Pages(3-1)

b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

THE SIXTH, AND THE FOURTEENTH AMENDMENT(S), to the United States Constitution.. Crawford v. Washington, 541 U-S-36..

Faretta v. Calif., 422 U-S- 806-820..

~~Strickland v. Washington, 446 U-S-668..~~

STATEMENT OF THE CASE

"CLAIM ONE.. "

INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL.

AND OR APPELLATE COUNSEL..

Petitioner, contends that his Appellate Counsel, failed to raise, and or include all issues priorly raised in the Appellate Court when he, counsel, filed petitioner Supreme Court review.. "Evidence, admitted during trial, from the alleged victim, Zeda, which was, Inadmissible evidence .. This evidence was lawfully excluded from admission, ; "alleged notes that ,Zeda, the alleged victim, had given to her Son, and Friend, prior to her death, stating the following..

1.) [In the first challenged note, dated June 3, 2003,Zeda apparently told Galbreath,that she was going with Orange to rent a truck and that if her son, had given Galbreath the note, this means that Zeda, had failed to return.Zead, also requested that Galbreath, be the executor of her estate and ensure that her sons receive the proceeds from her life insurance policies. ..]

2.) [In the second note, also dated June 3, 2003,directed Zeda's to give the other note to Galbreath if Zeda, failed to return.]

Petitioner contends, that the trial-court allowed these two notes to be admitted..Trial Counsel made proper objection to the records for purpose of appeal.. Appellate Counsel, failed to raise this issue on appeal, even after petitioner personally requested him /her to do so. This is then Ineffective Assistance of Appellate Counsel.. Violation of the Sixth Amendment to the United States Constitution......

Take Judicial Notice:

1.) The court of Appeals, Identified this as a possible error; during trial.. noting although, that assuming the admission of the notes, were error the notes did not prejudice Orange... However, this was an appealable issue, reserved at the trial level..By Counsel making objection.. The issue was not brought before this court for a review; Appellate counsel removed the issue without even telling (me) petitioner he was going to do this..

2.) Second note by the Appellate Court..

(A). "WE HAVE IDENITIFIED "ONE POSSIBLE ERROR". That occured during trial; the admission of Zeda's notes to her friend , and her son.

Yet, Appellate Counsel removed this issue, which may or may not had been the element in the case to have resulted in reversal of the case. . (It), should had been submitted to the Supreme Court for review, with the original Brief... for this reason, the court should review this issue in the interest of justice..

Petitioner, contends that if it had not been for this admission in the Superior Court in the first place, the results of the trial would had been different, and in petitioner's favor.. This evidence was "PREJUDICE".. If it had not been for this evidence, "NOTES".. Counsel would had been able to establish A REASONABLE DOUBT".. That petitioner committed the alleged **"MURDER"**. Appellate Counsel, failure to raise this issue on appeal to the Supreme Court, denied Petitioner a right to a full, and fair hearing, as is provided for by the "Sixth-Amendment" to the United States Constitution..

- The error here also, raise, Federal Confrontation Clause Issees.

petitioner, contends that this "prejudice resulted, from This Error.. Pursuant to the standard set-forth in: (Chapman v. California, Supa,386-U-S-18;, under which reversal is required, unless, the court can say beyond a reasonable doubt, that the results would not have been more **favorable** in the absence of this error. Petitioner, therefore, moves this court to declare several Constitutional Violatons.... WHEREFORE, REMAND THIS CASE FOR RE TRIAL, , OR IN THE ALTERNATE REVERSE IT, IN THE INTEREST OF JUSTICE...

Strickland v Washington, 446-U-S-668;

Faretta v. California, 442-U-S-806-820.

Crawford v Washington, 541-U-S-36..

And Citing the Sixth , and the Fourteenth Amendments to the United States Constitution....

CLAIM TWO..

1.). THE APPELLATE COURT MADE JUDICIAL ERROR.

The Appellate Court, "ERRORED", when it resolved an issue based on inferences of facts... It, the court found based on theories which were never litigated.. ..

The introduction of notes allegedly given to the prosecution, were admitted into evidence, and allowed to be heard by the jury which had never been admitted during pre-liminary proceedings. This was "JUDICIAL ERROR, AND MISCONDUCT...During trial proceedings, The Appellate Court, then committed Reversalable Error, , when it, the court affirmed the trials court's conclusion. The Alleged notes should had been Suppressed.. They should never had been sub-mitted into evidence.. Petitioner, contends that raising an unrelated claim, unlitigated,for the first time in trial , deprives petitioner of his right to a fair trial guaranteed by the Sixth Amendment to the United States Constitution.. Yet, the Appellate Court, -"Affirmed the Trial-Court's "ERROR".. This was evidence, that should had been suppressed.. The admission of this evidence, was "**Prejudice**, and it rendered the trial a **Sham**".. "FUNDAMENTALLY **UNFAIR**"..The results here are , "Due-Porcess, and "Equal Protection Violations of the Federal Constitution... "

"The purpose of the Prosecution submitting those prejudice notes was to say to the jury, that petitioner was guilty , by "**PROPENSITY**" to commit the **Murder**. As stated in Claim One..

"On Appeal, the Appellate Court, Concluded:"

[Even assuming the admission of the notes were in error, the notes did not , "PREJUDICE PETITIONER", and we concludes that petitioner received a fundamentally fair trial..]..

Petitioner, disagree, the Appellate Court Errored..

A). Evidence Code 352 provides. The court in its discretion may exclude evidence If It's probative value Is substantially outweighed by the probability that its admission will create substantial danger of undue prejudice. The admission of the notes were to show the jury that petitioner committed the alleged "**Murder**" because, Zeda , had given these notes to her Son, and Friend.. to say that, if anything happens to me, then Orange is the guilty party.. The admission of the notes outweighed the probative value, and should had never been admitted.. Those notes did infact prejudice the jury, and the results were petitioner not getting a fair trial.. Those notes "Posed "Risk to the fairness of the proceedings, and the reliability of the outcome,. (People v Jablonski,(2006) 37 Cal. 4th, 774-805).

Zeda, painted a picture with the notes, for future use by the prosecution, should anything happen to her.. This is Called."Testimonial" Admission then was ERROR.. See: Crawford Supra.,541-U-S-at p. 52). This defends how "Testimonial Formulates. and then become an affidavit Here the prosecution submits , evidence of Zeda's notes, . Yet, (I), petitioner, was not given an opportunity to "Cross-Examine, the witness who gave them.. The court could not say that petitioner was the cause of the witness, non-attendance at trial, because, they would then have to say, petitioner killed Zeda... Preventing her attendance at trial; the very issue for the purpose of trial in the first place.

WHEREFORE: The Appellate Court Errored.. The Superior Court Errored, and Appellate Counsel was Ineffective in his defense, and all therefore causing the several constitutional violations..

For good cause shown, this High Court should grant review, and order this case revered, remanded, and or vacated in the interest of justice,,, And grant what other reliefs the court deems proper and just to issue in this case...

Sworn under penalty of perjury, to be true and correct so help me God, on this 4 day of OCT, 2007; executed at the Kern Valley State Prison, Delano, California 93216...

Certificate of service..

sworn that I did serve one real, and true copy of the writ-of-Habeas Corpus, upon the State Attorney General, by placing a copy of the same into a legal envelope, then addressing the same, to the below address. then placing it into the prison mail on this ____day of 20007. So Help Me God. 28 U_S_C_ 1746..

Attorney General, Bill, Lockyer, 455 Golden Gate Ave., # 6000.
San Francisco, California 94103...

Eugene Orange
Eugene Orange. V-64598

8. Did you appeal from the conviction, sentence, or commitment? [x] Yes. [ ] No. If yes, give the following information:
   a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"):
   California Court of Appeal Fourth District.
   b. Result Affirmed c. Date of decision: APR 21 62006
   d. Case number or citation of opinion, if known: D045936
   e. Issues raised: (1) Due-Process .Equal Protection. and Fair-Trial..
   (2) Jury Trial..
   (3) Fourth Amendment; Entry, and Search. Harmless Error..
   f. Were you represented by counsel on appeal? [X] Yes. [ ] No. If yes, state the attorney's name and address, if known:
   Greg M. Kane PMB.86,993-CSouth SantaFe, Ave.,Vista, Calif.,92083.

9. Did you seek review in the California Supreme Court? [xx] Yes [ ] No. If yes, give the following information:
   a. Result Denied b. Date of decision: July 26, 2006
   c. Case number or citation of opinion, if known: ~~06-6997~~ S143632
   d. Issues raised: (1) Same as above. Raised in the
   (2) Appellate Court...
   (3)

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:
   Counsel failed to raise the claims.. Counsel left them out of the Appeal to the California Supreme Court...

11. Administrative Review:
   a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:
   N/A

   b. Did you seek the highest level of administrative review available? [ ] Yes. [ ] No. N/A
   Attach documents that show you have exhausted your administrative remedies.

12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or issue in any court? ☐ Yes. If yes, continue with number 13. ☒ No. If no, skip to number 15.

13. a. (1) Name of court: Just my First Appeal by way

(2) Nature of proceeding (for example, "habeas corpus petition"): Of Habeas Corpus..

(3) Issues raised: (a) N/A

(b)

(4) Result *(Attach order or explain why unavailable)*: N/A

(5) Date of decision:

b. (1) Name of court: N/A

(2) Nature of proceeding:

(3) Issues raised: (a)

(b) N/A

(4) Result *(Attach order or explain why unavailable)*:

(5) Date of decision: N/A

c. *For additional prior petitions, applications, or motions, provide the same information on a separate page.*

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

N/A

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)

N/A

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

N/A

17. Do you have any petition, appeal, or other matter pending in any court? ☐ Yes. ☒ No. If yes, explain:

N/A

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

N/A

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: 10-4-07 [signature]

(SIGNATURE OF PETITIONER)

maintain his privacy; and whether he was legitimately on the premises].) Therefore a search of the apartment at any time after midnight on July 31 would not have implicated Orange's constitutional rights. (Cf. *Abel v. United States* (1960) 362 U.S. 217, 241 [after defendant vacated hotel room, the hotel had the exclusive right to possession of the room and hotel management gave consent to a search].)

Because of the particular circumstances in this case, we can say with certainty that Zeda's body and the other evidence found in Orange's apartment would have been discovered sometime after July 31 if police had not found it when they entered the apartment without a warrant on that date. After July 31, police would have been able to lawfully enter the apartment and obtain the evidence at issue.[17]

F. *The cumulative effect*

Orange asserts that even if no single error requires reversal, the cumulative effect of the errors was prejudicial and requires reversal of the judgment. We have identified only one possible error that occurred at trial—the admission of Zeda's notes to her friend and sons. However, as we have discussed, even assuming the admission of the notes was

17 Although we need not determine whether exigent circumstances justified the warrantless entry into the apartment, we note that the detectives did not behave in a manner consistent with a belief that exigent circumstances existed, and the facts supporting the existence of an exigency are extremely weak. There is no evidence that anyone saw or heard anything that would indicate that Zeda might be inside Orange's apartment, or that if she were inside the apartment, she was in danger. There is little in this record that would explain why officers faced with these circumstances failed to take the steps necessary to obtain a search warrant prior to entering the apartment. It is simply a fortuity that the police conducted the warrantless search of Orange's apartment on the day on which he was to vacate the apartment, thereby relinquishing any reasonable expectation of privacy in the apartment.

the statements at trial, any such error was harmless beyond a reasonable doubt. (*Chapman v. California* (1967) 386 U.S. 18, 24.)[13]

In view of the strength of the prosecution's case against Orange, the significance of these two notes is negligible. Orange had a history of becoming angry with Zeda. Zeda had sought restraining orders against Orange due to her concern about what he might do to her. Zeda's body was found in the bed in a locked apartment she had shared with Orange. After Zeda's mother reported her missing, Orange was captured on video using Zeda's ATM card to withdraw money from her account, and sitting alone in Zeda's car, which she had taken with her to her new apartment. Orange fled his apartment and attempted to conceal his identity by using the social security card belonging to one of Zeda's sons.

Additionally, Galbreath testified—without objection—that Zeda had informed her about a week before the murder that she had taken out insurance policies on her own life, and told Galbreath where they were located. Zeda told Galbreath that "she was going to go out fighting," and asked Galbreath to "be strong" when Galbreath indicated that she did not want to hear Zeda "talk[ing] like that." The contents of Zeda's notes were thus merely cumulative to other evidence presented at trial.

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13 Because the alleged error raises federal Confrontation Clause issues, we assess the prejudice resulting from the claimed error pursuant to the standards set forth in *Chapman v. California, supra*. 386 U.S. 18, under which reversal is required unless the court can say beyond a reasonable doubt that the result would not have been more favorable in the absence of the error.

error, the notes did not prejudice Orange. We conclude that Orange received a fundamentally fair trial.

IV.

DISPOSITION

The judgment is affirmed.

AARON, J.

WE CONCUR:

HALLER, P. J.

McINTYRE, J.

Court of Appeal, Fourth Appellate District, Div. 1 - No. D045936
S143632

IN THE SUPREME COURT OF CALIFORNIA

En Banc

THE PEOPLE, Plaintiff and Respondent,

v.

EUGENE ORANGE, Defendant and Appellant.

Petition for review DENIED.

SUPREME COURT
FILED
JUL 26 2006
Frederick K. Ohlrich Clerk
DEPUTY

GEORGE
Chief Justice

No, 07 CV0749 J (AJB)

OUTGOING LEGAL MAIL RECEIPT

NAME: Eugene Orange CDC No. V-64598 CELL C-8-202-L

DISCRIPTION: Clerk Of U.S. District Court Room 4290 880 Front Street. San Diego, CA 92101-8900

1. California Supreme Court
350 McAllister St
San Francisco, CA
94102

2. Attorney General Office
110 W "A" St 1100
San Diego, CA
92186-5266

3.

4.

5.

6.

PROOF OF SERVICE BY MAIL

. the undersigned declare under penalty of perjury the above listed mail ıs delivered to the officer signing below, and this document executed on ıe 14 day of Oct, 2007 at Delano, CA 93216.

ficer receiving mail sign below:

INT NAME:

TE:

Inmate Signature: Eugene Orange

Print Name: Eugene Orange

JS44
(Rev. 07/89)

CIVIL COVER SHEET

FILED
OCT 22 2007
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY [signature] DEPUTY

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

23444

FILING FEE PAID
Yes ___ No ✓

IFP MOTION FILED
Yes ___ No ✓

COPIES SENT TO
Court ✓ Prose

I (a) PLAINTIFFS

Eugene Orage

DEFENDANTS

Hedgepeth, et al

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Kern
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT ____________
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Eugene Orange
PO Box 5103
Delano, CA 93216
V-64598

ATTORNEYS (IF KNOWN)

'07CV 2066 JLS WMc

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX (For Diversity Cases Only) FOR PLAINTIFF AND ONE BOX FOR DEFENDANT

	PT	DEF		PT	DEF
Citizen of This State	☐1	☐1	Incorporated or Principal Place of Business in This State	☐4	☐4
Citizen of Another State	☐2	☐2	Incorporated and Principal Place of Business in Another State	☐5	☐5
Citizen or Subject of a Foreign Country	☐3	☐3	Foreign Nation	☐6	☐6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 U.S.C. 2254

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT
- ☐ 110 Insurance
- ☐ Marine
- ☐ Miller Act
- ☐ Negotiable Instrument
- ☐ 150 Recovery of Overpayment &Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153Recovery of Overpayment of Veterans Benefits
- ☐ 160 Stockholders Suits
- ☐ Other Contract
- ☐ 195 Contract Product Liability

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectmant
- ☐ 240 Tort to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury-Medical Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/Accommodations
- ☐ 444 Welfare
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence Habeas Corpus
- ☒ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC881
- ☐ 630 Liquor Laws
- ☐ 640 RR & Truck
- ☐ 650 Airline Regs
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710Fair Labor Standards Act
- 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt. Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc.
- ☐ Security Act

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (13958)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS - Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reappointment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities Exchange
- ☐ 875 Customer Challenge 12 USC
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State
- ☐ 890 Other Statutory Actions

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appelate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23 **DEMAND $** Check YES only if demanded in complaint: **JURY DEMAND:** ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE Docket Number

DATE 10/22/2007 ~~SIGNATURE OF ATTORNEY OF RECORD~~

R. Mullen [signature]